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COURT OF APPEALS
DIVISION II

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STATE OF WASHINGTON

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COURT OF APPEALS

DIVISION II

OF THE STATE OF WASHINGTON

CURTIS WRIGHT, APPEALANT

V.

PIERCE COUNTY RISK MANAGEMENT,
TACOMA, WA, RESONDENT

BRIEF OF APPELLANT

Curtis Wright, pro-se
501 Nightingale PL
Las Vegas, NV 89107

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6

7 **CASES:**

8	The Board of Industrial Insurance Appeals Significant Decision case RE: <i>Jorge C.</i>	
9	<i>Perez-Rodrigues</i> , BIIA Docket No 06 18718 which includes Washington State's	
10	policy of, <u>Application of the Doctrine of Res Judicata to a Department Orders,</u>	
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16

1 IN THE COURT OF APPEALS,
2 DIVISION II
3 OF THE STATE OF WASHINGTON
4

5 Curtis Wright,) No. 56979-5-II
6 Appellant,)
7 V.) BREIF OF
8 Pierce County Risk Management,) APPELLANT
9 Respondent.)

10
11 **I. INTRODUCTION:**

12 Pre-introduction:

13 I cannot think of any item I wrote about in this Brief that I do not have
14 supporting documentation. Most are supported by the Clerk's Papers and the
15 attached Exhibits, but I also have other supporting documents, if desired.
16

1 **Acronyms:**

2 The BIIA – The Board of Industrial Insurance Appeals

3 CP – Clerk’s papers, with the bold pages on the bottom right of the CP

4 DRS – Washington State Department of Retirement Systems

5 FOIA – Freedom of Information Act

6 IME – Independent Medical Exam

7 L&I – Washington State Department of Labor and Industries

8 PTSD – Post-Traumatic Stress Disorder

9 **CP** will be noted as the **bold page numbers** The BIIA Court wrote bold page
10 numbers on the bottom right (bates stamp) of the Clerk’s Papers. Per The Pierce
11 County Clerk’s Office, The BIIA Court papers and also the three Piece County
12 Superior Court Orders.

13
14 The Trial Judge dismissed this Claim on my Motion for Summary Judgment,
15 citing CR 56, noting that the Doctor who wrote the FORENSIC PHYSITRIC
16 REPORT (**CP 181-186**), did not use **Declaration language**. I provided a
17 Declaration (from the doctor) to The Three Person BIIA Board on Appeal to that

1 Board – see **CP 23**). This same Trial Judge, in another case, currently before Her
2 Honor, did NOT follow **two** other Court Rules. This Appeal also addresses The
3 Trial Judge also incorrectly interpreted a BIIA Significant Decision I had noted.
4 Washington State has **not** followed their own Policy regarding the Application of
5 the Doctrine of Res Judicata to a Department Orders (**CP 230-241**). Nor has
6 Washington State shown Fundamental Fairness and Equitable Concerns.

8 **II ASSIGNMENT OF ERRORS**

9 Did the Trial Court correctly interpret the *Jorge C. Perez-Rodrigues*
10 Significant Decision regarding The Application of the Doctrine of Res Judicata to
11 a Department Orders? (No 1) . Did the trial Court follow Washington State RCW
12 51.08.142, RCW 51.08.013, RCW 51.04.153, RCW 51.04.024, and RCW
13 51.04.063? (No. 2). Did the Washington State and The Trial Court follow Court
14 use Fundamental Fairness and Equitable Concerns in application of CR 56,
15 Washington State Policy and law? (No.3).

17 **ISSUES PERTAINING TO ASSIGNMENT OF ERRORS**

18 **No. 1** – The Crail Court erred in its interpretation the *Jorge C. Perez-Rodrigues*

1 Significant Decision regarding The Application of the Doctrine of Res Judicata to
2 a Department Orders.

3 **No. 2** – The Trial Court did not comply with RCW 51.08.142, RCW 51.08.013,
4 RCW 51.04.153, RCW 51.04.024, and RCW 51.04.063.

5 **No. 3** – Washington State and The Trial Court erred in its application of
6 Fundamental Fairness and Equitable Concerns regarding CR 56, Washington State
7 Policy, and Washington State law.

8
9 **III STATEMENT OF CASE**

10 **THIS IS A VERY SIMPLE CLAIM.**

11 I worked for Pierce County Sheriff's Department from 1984-2011 with my
12 last eight years as a Sheriff's Detective (2002-2011). I put in a claim for PTSD
13 (Post Traumatic Stress Disorder) in 2011. In 2012, my Claim for PTSD was denied
14 per a BIIA Court Order, **CP 136-144**. In 2012 **multiple exposure** PTSD was **not** a
15 valid claim.

16 In 2018, the Washington State Legislature changed the Occupational
17 Disease law allowing multiple exposure PTSD as a valid claim. In 2018 I put in a

1 new claim for PTSD through L&I which was denied (**CP 291**) so I put in an appeal
2 to The BIIA Court which was also denied. Before The BIIA Court denied my
3 2018 PTSD Claim, I was re-exposed with a Subpoena (this Claim) regarding The
4 Lakewood Four Officers murdered by Maurice Clemmons. For a copy of the
5 Subpoena I received on January 18th, 2020, see the envelop, the Subpoena, and my
6 handwritten notes, **CP 163-165**. I not only did a fair amount of work on this case,
7 but I am almost positive I met (while I was following up on a case in The City of
8 Lakewood) the female Officer that was murdered about six months prior to her
9 murder. I felt more connected to this quadruple murder case that I worked
10 personally meeting this very professional and a very nice person.

11 I requested to Judge John R. Ledford to include this a new exposure (the
12 exposure for this Claim) be included in the 2018 PTSD Claim (**CP 188-194**) but he
13 refused to allow this new exposure, **CP 291**. I felt this Claim was the stronger of
14 the two cases. I then put in a new Claim (this Claim) that was denied by L&I, The
15 BIIA Court and Pierce County Superior Court agreed with L&I, so I am appealing
16 to this Court.

17 Washington State's Policy on the Application of the Doctrine of Res
18 Judicata to a Department Orders, **CP 230-241**, has never been followed. This
19 Policy has requirements that The BIIA Court apparently does not even have

1 authority to address and must be done by a higher Court (see details below that
2 provides part of the written decision).

3 4 **IV SUMMARY OF ARUGMENT**

5 The Trial Judge dismissed my Claim based on **gross mis-interpretation** of
6 my argument that Washington State is required to follow their own policy of the
7 Application of the Doctrine of Res Judicata to a Department Orders **see CP 230-**
8 **241.**

9 The Trial Court completely mis-interpreted RCW 51.08.142 noting it
10 requires an IME evaluation by a Washington State licensed psychiatrist or
11 psychologist for a PTSD Claim. **THIS IS NOT TRUE AT ALL. That portion**
12 **of the RCW covers pre-employment screening** of first responders “as a
13 **condition of employment.”** Further, I will provide an L&I Policy to This Court
14 that notes I can see an IME doctor near where I live, in Las Vegas, NV.

15 Her Honor noted my Claim was 10 years after my employment, but RCW
16 51.08.013– Acting in Course of Employment (**RCW – CP 348**), does not have a
17 time limit. **Her Honor is writing new law** instead of interpreting what is written
18 in the current RCW. Further, my 2018 Claim was about six years after the 2012

1 BIIA Court Order denying my initial PTSD Claim. Other RCWs were not
2 followed.

3 The Trial Court dismissed my Claim noting my doctor failed to provide
4 Declaration language for his IME Report (which I later provided for The BIIA
5 Three-person Panel – for Declaration, see **CP 23**). This same Trial Court Judge,
6 in a current BIIA Court case, on **two** occasions violated Court Rules. I have
7 Exhibits to prove **both** of these. This is not Fundamental Fairness nor Equitable.

8 Washington State has not followed their own Policy, RCWs and have shown
9 favoritism toward The Employer.

10 11 **V ARGUMENT**

12 Per a 2012 BIIA Court Order, I have multiple-exposure PTSD, mainly due to my
13 work at a Detective, **CP 136-144**. Item #3 under the FINDINGS OF FACT from
14 the 2012 BIIA Court Order:

15 3. Mr. Wright's medical condition and/or mental disability diagnosed as
16 Post-Traumatic Stress Disorder was caused or aggravated by his
17 employment. (For #3, **CP 143**).

1
2 The Trial Court Judge notes **presumption** is not applicable, **CP 99**. I am
3 not claiming presumption because the 2012 BIIA Court Order already decided I
4 have work related PTSD.

5 I am putting this segment of my narrative near the start of the Argument
6 section, to inform the Court of how receiving this Subpoena, and PTSD in general,
7 effects my life. About six months **after** receiving the Subpoena for this quadruple
8 murder case, my wife moved from our bedroom to sleeping on the couch because I
9 had, in varying degrees, hit her on three different occasions when having PTSD
10 nightmares. (I used getting my new dog as a time reference to when these things
11 occurred.) I am very close to my wife, but I can understand she does not want to
12 be hit at night due to my PTSD nightmares (that were much more frequent after the
13 re-exposure from this Subpoena).

14 See **CP 146-161** for two Pierce County Sheriff's Department Reports I
15 wrote regarding this quadruple homicide case I did a lot of work on. By the time I
16 worked this quadruple homicide case, I was already having issue with PTSD and
17 had previously been told by my Sheriff's Department supervisors to seek
18 counselling and a Captain also suggested going on anti-depression medication. I

1 still go to counselling and take (roughly) 15 medications, several of which are for
2 PTSD/nightmares. See **CP 226** for my medications list. I have been in constant
3 counseling, and also taking medications, for PTSD for several months, if not years,
4 before I was medically terminated from The Sheriff's Department after a
5 back/shoulder injury when placing a dead body into The Medical Examiner's
6 truck.

7 On January 18th, 2020, I received a Subpoena regarding the case involving
8 The Lakewood Four Officers murdered by Maurice Clemmons. For a copy of the
9 Subpoena, the envelop for the Subpoena, and my handwritten notes on the back of
10 the Subpoena, see **CP 163-165**. This Subpoena caused re-exposure and worsened
11 my PTSD per Dr. Brown's FORENSIC PHYSITRIC REPORT, see **CP 181-186**. I
12 have been seeing my current PTSD doctor, Dr. Stock, consistently for about eight
13 years. See recent 2016-2021 treatment notes as **CP 196-217**. Dr. Stock also
14 wrote a letter noting I was having PTSD issues after the death of four people that
15 died within about a month, in August, 2019. This included a niece who
16 committed suicide after her mother (my sister) died. Another sister and I were
17 helping our niece financially when she committed suicide. Two former co-workers
18 also committed suicide. See **CP 219** for this letter.

1 When I received the Subpoena on the quadruple homicide, I then requested
2 BIIA Judge John R. Ledford (see letter for this **CP 188-194**) that he include the
3 new exposure to the 2018 Claim and he refused, so I filed a new Claim (this
4 Claim). See SIF-2 injury report Claim form, **CP 221**.

5 Trial Judge Leslie Birnbaum incorrectly noted, and wrote in her Order, I was
6 referring to BIIA Significant Decision case, *Jorge C. Perez-Rodrigues* (BIIA
7 Docket No 06 18718) see **CP 98, line 27**, when my reference was to the
8 Washington State's Policy on the Application of the Doctrine of Res Judicata to a
9 Department Orders (**CP 230-241**) noted in the *Rodriguez* case. Both this Doctrine
10 and my 2012 PTSD Claim were decided cases. Her Honor incorrectly compared
11 my case to the *Rodriguez* case and noted The *Rodrigues* case was **not** a decided
12 case see **CP 98, line 26**. It appears this Doctrine notes only a higher Court (above
13 the BIIA Court) needs to address the issue of applying this Doctrine, see **CP 230-**
14 **241**. From the *Rodrigues* case:

15 Our ability to provide this form of relief is limited because we do not have
16 equitable powers except when a court decision permits us, under the doctrine
17 of stare decisis, to exercise such a power, **CP 232, starting at line 25**.

1 Even if this Court agrees with the previous Courts, on all other matters,
2 Washington State has failed to follow Washington State's Policy on the
3 Application of the Doctrine of Res Judicata to a Department Orders, see **CP 230-**
4 **241**. Correct application of this Doctrine overwhelmingly favors my case,
5 including the change of circumstances (due to the 2018 change in RCW 51.08.142
6 and a new exposure). The Trial Court has ignored the change RCW and ignored
7 that this is a new exposure.

8
9 **NON-COMPLIANCE WITH RCWs:**

10 In Judge Leslie Birnbaum's denial Order, she wrote, on **CP 94, line 26**:

11 RCW 51.08.142 requires an evaluation by a Washington State licensed
12 psychiatrist or psychologist (Judge's footnote cites RCW 51.08.142(2)(b)).

13 Here is the actual part of RCW 51.08.142 (2)(b):

14 (b) ... hired after June 7, 2018, and public safety telecommunicators
15 hired after June 11, 2020, (a) of this subsection only applies if the firefighter
16 or law enforcement officer or public safety telecommunicators, **as a**
17 **condition of employment,**

1 (Only partial RCW due to word count.)

2 **ITEM 2, b, is for PRE-EMPLOYMENT SCREENINGS, NOT PTSD**

3 **CLAIMS. Per L&I public policy I am supposed to be able to see an IME**
4 **doctor close to me. I found this online regarding L&I Policy:**

5 Pursuant to Department of Labor & Industries Policy 13.05 (effective
6 January 1, 2021), The IME examination must be scheduled “at a time
7 and place reasonably convenient to the worker.” Reasonably
8 convenient means “a Location where the resident with the workers’
9 community (county) would normally travel for similar care.

10 The IME (FORENSIC PHYSITRIC REPORT) by Dr. Gregory P Brown, that I
11 provided (works near where I live – Las Vegas, NV), and was done on January
12 23rd, 2021 (within this policy’s date requirements). See Dr. Brown’s FORENSIC
13 PHYSITRIC REPORT, CP 181-186.

14
15 Regarding, RCW 51.08.142 - Occupational Disease, effective June 7th, 2018,
16 the Washington State Legislature amended RCW 51.08.142 to allow multiple
17 exposure PTSD for first responders as an Occupational Disease. The Court has
18 ignored the will of Washington State’s Legislature to provide this benefit for first

1 responders that includes law enforcement Officers. My previous 2012 PTSD case
2 noted I had multiple exposure PTSD.

3
4 Judge Leslie Birnbaum wrote in her denial Order, **CP 98, line 7:**

5 Because Mr. Wright retired in 2011, he was no longer an active worker,
6 working in the course of employment with Pierce County.

7 **RCW 51.08.013 – Acting in the Course of Employment**

8 **(Complete RCW – CP 348)**

9 The following is the first paragraph of this RCW. I will **bold** the parts of
10 this RCW were ignored.

11 **"Acting in the course of employment."**

12 **(1) "Acting in the course of employment" means the worker acting at**
13 **his or her employer's direction or in the furtherance of his or her**
14 **employer's business**(removed due to word count).....
15

16
17
18 **It is not necessary that at the time an injury is sustained by a worker**
19 **he or she is doing the work on which his or her compensation is based**
20 **or that the event is within the time limits on which industrial insurance**
21 **or medical aid premiums or assessments are paid.**
22
23
24

1
2 I was definitely acting in my previous employer's direction **per a Subpoena**
3 **received from The Sheriff's Department** and this was in furtherance of the
4 employer's business. Further, the last sentence of this RCW notes how the time of
5 injury does not have to be with the time limits on which industrial insurance...are
6 made (paid).

7 This RCW clearly points out Washington State requires employers to be
8 responsible for re-injury which were caused by The Employer. Judge Leslie
9 Birnbaum noted in her Order a 10-year time span (see **CP 95, line 13**). It was only
10 6 years from the 2012 BIIA Court Order, until I put in a new PTSD claim, in 2018,
11 after the Legislature changed the law regarding PTSD. **Her Honor, by adding**
12 **time limits to this RCW, is adding something to an RCW that is not there.** The
13 BIIA Court has routinely ignored re-exposers as if they did not even occur. I chose
14 to Appeal this Claim (instead of my 2018 PTSD Claim) because I thought it was a
15 more direct re-exposure from my employer.

16
17 **RCW 51.04.153 - FRAUD**

1 The Employer, for Claim No SC 56363 (Docket No 21 13048), which is
2 currently before The BIIA Court, provided false information about my shoulder
3 injuries to Washington State. If needed, I have a detailed report from a Doctor
4 explaining this Fraud.

5
6 **RCW 51.04.024 Establishment of investigation unit**

7 This RCW is from 2008.

8 (1) There is established an investigation unit within the department for
9 the purpose of detection, investigation, and prosecution of any act
10 prohibited or declared to be unlawful under this title. The director
11 will employ supervisory and investigative personnel for the program,
12 who must be qualified by training and experience.
13
14
15
16
17

18 (2) ...

19 #2 left out to reduce word count....
20
21

22 I emailed Washington State' L&I's investigation unit several documents that
23 proved Medicare Fraud from my back and shoulder injury (currently before The
24 BIIA Court). The Employer failed to provide per diem as is required for an IME
25 exam for the 2018 PTSD claim as is required by RCW. I had to traveled three
26 states to comply with an IME examination by The Employer (or my case would

1 have automatically been rejected by L&I). Washington State has repeatedly sided
2 with The Employer even when they break the law. I have not seen Washington
3 State do anything to about this illegal behavior from The Employer. I know L&I
4 received my emails complaints because someone at L&I replied to my email(s).
5 Months after I sent the investigation unit information, I emailed L&I requesting
6 any notes or reports from their investigation and they told me they did not have
7 any.

8
9 **RCW 51.04.063 Injured worker options—Claim resolution settlement**
10 **agreements.**

11 **ONLY THE 3, C PORTION OF THIS RCW:**

12 (c) The agreement is the result of a material misrepresentation of law or fact;
13 I have repeatedly provided not only L&I, but L&I's Investigative Unit, The BIIA
14 Court, and AAG James Johnson with overwhelming proof The Employer
15 committed fraud, but they simply refuse to investigate the fraud.

16
17 **Fundamental Fairness and Equitable Concerns regarding The Court's**
18 **application of Court Rule 56:**

1 Judge Leslie Birnbaum denied this, citing CR 56, noting my IME Doctor did
2 not use Declaration language (that I thought was in his IME report). I have PTSD
3 and often miss things like this that I would never miss before I had issue with
4 PTSD. I believe I submitted 102 pages of documents and an IME report, when
5 The Employer, nor Washington State did not even provide an IME Report. The
6 Judge did not balance the fact of how much works I put into this case versus a
7 simple request for a Declaration (which I **did** provide prior to my Appeal to the
8 three-person BIIA Board, **CP 23**).

9 Missing something like this is much more common since I was diagnosed
10 with PTSD. When I applied for a DRS disability in 2011, I forgot to provide them
11 with a copy of the PTSD report from The Social Security Administration. For a
12 Sheriff's Detective, it would have been elementary for me to provide such an
13 important document along with my other medical documents. I did not notice this
14 until about 8-10 months into the process. Shortly after I provided Washington
15 State DRS this document, my Catastrophic Disability from DRS was approved.

16 I also have driving problems related to being mentally distracted. Just this
17 month (February, 2023), I broke a taillight on my vehicle (near my garaged door
18 by hitting an electrical box). Numerous times, I have hit things while driving
19 (usually parking/garage related). I believe due to mental distraction, costing me

1 thousands of dollars in repair bills. (I can provide proof of several things
2 damaged.) The 2012 BIIA Court Order (**CP 136-144**) notes, in great-detail,
3 similar problems.

4 Judge Leslie Birnbaum was notified of my PTSD accommodations and has
5 made some adjustments to scheduling. On one previous occasion, I had forgotten a
6 Court date when Judge Leslie Birnbaum telephoned me and I happened to answer
7 my cell phone. I told Her Honor that I had forgotten the telephonic Court Hearing
8 and she should be well aware of my numerous PTSD problems. One would think
9 this would allow me to simply provide a Declaration from my IME doctor, instead
10 of dismissing my claim. CR 56 allows for obtaining a Declaration if one is not
11 initially provided. Here is a **partial copy of CR 56** regarding this issue:

12 (f) When Affidavits Are Unavailable. Should it appear from the affidavits of
13 a party opposing the motion that for reasons stated, the party cannot present
14 by affidavit facts essential to justify the party's opposition, the court may
15 refuse the application for judgment or may order a continuance to permit
16 affidavits to be obtained or depositions to be taken or discovery to be had or
17 may make such other order as is just.

1 This CR 56 issue is related to Fundamental Fairness and Equitable Concerns.
2 Judge Leslie Birnbaum had knowledge from The BIIA Court of my ADA due to
3 PTSD, numerous medical appointments, my numerous medical problems, and had
4 even experienced these issues.

5 In the current Claim before this same Trial Judge, she did not follow CR 56.
6
7 I was only allowed 26 hours to prepare for The Employer's Summary Judgement
8 Motion. The following Exhibits prove this:

9
10 Exhibit #1 – An email that shows a Judicial Assistant sent me a copy (**upon my**
11 **request**) only 26 hours before the July 30th, 2022 Hearing. CR 56 requires a 5 day
12 notice.
13
14

15
16 Exhibit 2 – A photocopy of an envelope, postmark of July 26th, (and first page of
17 The Employer's Interlocutory) that I did not receive until July 30th (the same day
18 of the Hearing).
19
20

21
22 Exhibit 3 - A one-page transcript from that case where, on my third attempt, I
23 finally got this on the record that I only had 26 hours to prepare. In two
24 previous attempts, The Trial Judge would not allow me to speak.
25
26

27
28
29 **SECOND COURT RULE VIOLATION (IN SAME CURRENT CASE**
30 **BEFORE THE B.I.I.A. COURT):**
31
32

1 The Employer provided only **one day** to review two USBs containing videos,
2 **when three days it required.** The Employer had **30 months** to provide this, but
3 purposely delivered the two USBs, just three days before the Hearing but they
4 could not be opened (either by me or the BIIA Court). Exhibit #4 are email(s) and
5 a partial transcript from the February 16th, 2023, Telephonic Hearing proving this.
6 The Trial Judge also, as usual, sided with The Employe allowing The Employer's
7 witness to testify and added, no one was at fault.

8 **THE COURT HAS NOT APPLIED COURT RULES FAIRLY, NOR**
9 **EQUITABLY.**

10
11 **NUMEROUS EXAMPLE OF WASHINGTON STATE FAILING TO**
12 **FOLLOW THEIR OWN POLICIES:**

13 (Non-compliance with RCWs noted in great detail above.)

14 **From the top down, Washington State shows unvarnished bias in favor**
15 **of The Employers and does not even try to hide it. The desire to keep costs**
16 **down is a clear goal, touted by L&I Director Joel Sacks.** The following is from
17
18 Washington State's website on the biography of Director Joes Sacks;
19

20 In Joel's times L&I director, long-term disability rates for injured
21
22

1
2 workers have been reduced by more than 20 percent.
3

4 **Special treatment for The Employer's Law firm:**

5 In my 2018 case, Judge John R. Ledford allowed The Employer to submit
6 (and it was granted) a Motion for extension of time, by email, even though the
7 Judge noted this was against BIIA's policy. Judge John R. Ledford also sided with
8 The Employer when they argued against me bringing a Tacoma News Tribune
9 news story about Pierce County leading the US in methamphetamine production
10 (into my Claim). The Judge stated it could not be verified. One could easily look
11 online and find the TNT news story. I have never even heard of any Court denying
12 a legitimate news story, that is public knowledge, **not** be allowed in Court.

13 Judge John R. Ledford sided with The Employer's medical expert (who had
14 also done contract work for L&I in the past) who blamed my Hepatitis on an
15 unknown/not diagnosed virus. I provided a Liver Biopsy report that noted
16 Hepatitis and years blood tests showing abnormal liver function tests results with a
17 Doctor's IME Report. Does the BIIA Court believe in Unicorns? The evidence
18 provided by The Employer was non-existent and was only a paid doctor's opinion
19 of something they have no evidence even exists.

1 The BIIA Court has largely ignored my ADA requests even after I noted:

2 ---PTSD

3 ---Numerous medical problems

4 ---Request to get my back surgery completed

5 ---**Two cancer treatments** and numerous other medical appointments.

6 Apparently, The Pierce County Judge did not even look at this case. I have
7 been to Pierce County Superior Court numerous times as a Correctional Officer
8 (taking prisoners), as a Deputy Sheriff, and numerous times testifying, mostly in
9 homicide cases, as a Sheriff's Detective. It is obvious that a Superior Court Judge
10 would not likely rule against his own employer. This is a huge bias in favor of The
11 Employer. I have seen how busy Pierce County Courts are. How many cases did
12 the Pierce County Judge handle on the day he decided this case?

13 **The Employer seems to think this is all a big joke.** In my 2018 claim
14 under this case, The Employer hired an IME doctor who referred to my current
15 PTSD doctor (Dr. Dennis Stock) as, "Dr. Stork," and in part of their IME report
16 referred to him as a "Physician's Assistant," instead of a Doctor. The Employer's
17 Law Firm is obviously comfortable doing this knowing Washington State will
18 do nothing.
19
20
21
22
23

1 .
2
3
4 On one occasion, the Lead Attorney, Mr. Wallace, sent me 1,200-1,500
5
6 pages of unwanted/**not** requested documents for Disclosure. This was not a
7
8 mistake. Mr. Wallace sent a two-page letter noting he would not provide me the
9
10 documents requested since I could get them from other sources. After I told
11
12 Washington State and Pierce County it looked like Mr. Wallace billed them for un-
13
14 needed work (per FOIA information from Pierce County), Mr. Wallace wrote a
15
16 letter to me that all FOIA requests for Pierce County needed to go through his
17
18 office. **When have you ever heard of a fraud suspect being the one in**
19
20 **charge of releasing documents to show he was innocent or guilty?** The
21
22 Employer's Law Firm has so much confidence they can lie, and commit fraud, and
23
24 make fun of my PTSD doctor, knowing full well Washington State will do nothing.
25

26 I know from a FOIA request, from 2010-2020, Mr. Wallace's Law Firm was
27
28 paid over \$2.1 million from Pierce County. I have made numerous FOIA requests
29
30 regarding the billing of 1,200 to 1,500 pages and new totals for the amount paid to
31
Mr. Wallace Law Firm. Pierce County has not complied with a lot my FOIA
requests. Pierce County has repeatedly sent me the same paperwork. I am sure
Mr. Wallace's Law Firm has been paid at least \$3 to \$4 million dollars from Pierce

1 County, just one client. The Appeals Court should not allow such unprofessional,
2 disrespectful, and illegal behavior be rewarded, all at Pierce County taxpayer
3 expense.

4
5 **LIKELY INTOXICATED B.I.I.A. COURT JUDGE:**

6 The Washington State Board of Industrial Insurance is covering up for Judge
7 Leslie Birnbaum who has made not only numerous mistakes (which I have
8 provided transcripts that show this) and Her Honor also sounded intoxicated on
9 February 10th, 2022, during a Telephonic Hearing). Her Honor slurred her words,
10 dropped two letters from the Claim Number (I have never heard this before), called
11 me Mr. White (instead of Mr. Wright), and twice (later in the Hearing), I could not
12 even understand what she was saying.

13 Through FOIA I discovered emails from The BIIA Court showing The BIIA
14 Court apparently working hand in hand with the Company that contracts with The
15 BIIA Court for Court Reporting do deny me an audio copy of this Hearing. These
16 emails note a meeting where I will be discussed. I believe The BIIA has
17 contracted with this Company for at least 18-20 years. The 2018 AG's policy
18 regarding public information on private devices is very clear and I should be

1 provided an audio copy of this Telephonic Hearing. I will be following up on this
2 issue of being denied an audio recording for a BIIA Court Hearing. The BIIA
3 Court appears to have been retaliatory in denying my stay request which happened
4 to be denied shortly after my complaint that The Trial Judge sounded intoxicated.

5
6 **VI ATTORNEY FEES:**

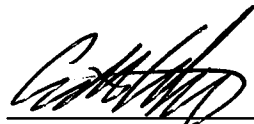
7 I have spent about \$40,000 on my cases with L&I and The BIIA Court and re-
8 imbursement for my expenses due to the Fraud by The Employer and the actions
9 by Washington State. I will provide documentation of the total amount, if needed.

10
11
12 **VII CONCLUSTION**

13
14 For the reasons noted above the Appellant respectfully requests that The
15 Court reverse the Trial Court's ruling and grant the Claimant a valid claim for
16 PTSD dated June 7th, 2018, which is the date The Washington State Legislature
17 made multi-exposure PTSD a valid Claim for an Occupational Disease.
18
19

20
21 Dated this 9th day of March 2023.
22

23
24 Respectfully submitted,

25
26 
27 _____
28 Curtis Wright, Pro se

1
2
3
4
5 **VIII APPENDIX**
6

7 **The Appendix includes three Exhibits:**
8

9 **Exhibit #1** --- An email RE CR 56.
10

11 **Exhibit #2** --- Copy of an envelope/postmark, and first page of Employer's
12
13 Interlocutory.
14

15 **Exhibit #3** --- A one-page transcript RE CR 56 and only 26 hours Vs. 5 days
16
17 required.
18

19 **Exhibit #4** --- Two transcript pages and emails showing one day to prepare
20
21 regarding evidence for Trial.
22

23 **SERVICE OF PAPERWORK:**
24

25 The Appeals Court:

26 I will fax or mail this paperwork to Washington State Appeals Court.
27

28 The Respondent:

29 Via US Mail with tracking number. I will also the law office a courtesy
30 copy via email.
31

32 Washington State AAG James S. Johnson:

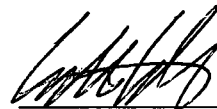
1 Per agreement, I will email AAG James S. Johnson documents.
2

3 **I DECLARE UNDER THE PENALTY OF PERJURY UNDER THE LAW**
4
5 **OF THE STATE OF WASHINGTON THAT THE FOREGOING IS TRUE**
6
7 **AND CORRECT.**

8
9 Word count (RAP 18.17): 4996

10 Dated this 9th day of March 2023.
11

12
13 Respectfully submitted,

14
15 
16

17 Curtis Wright, Pro se
18

EXHIBIT # 1

Appellant's Exhibit
CASE # 56979-5-II Washington State Appeals Court

An email to and from The Appellant RE: request to
Judicial Assistant to provide a copy of The
Employer's Paperwork.

**THIS WAS PROVIDED 26 HOURS BEFORE THE
CR 56 HEARING (WHEN FIVE DAYS IS REQUIRED).**

[Docket No. 21 13048 - Curtis Wright] RE: Request for a copy of something filed with The BIIA Court RE: 21 13048

From: Lyengard, Gabriel (BIIA) (gabriel.lyengard@biia.wa.gov)
To: cwright98371@yahoo.com
Cc: Leslie.Birnbaum@biia.wa.gov; Juanita.Sandifer@biia.wa.gov;
SWALLACE@WKMCLAW.COM; cbishop@wkmclaw.com; jamesj@atg.wa.gov;
mary.street@atg.wa.gov
Date: Wednesday, June 29, 2022 at 09:10 AM PDT

Good morning, Mr. Wright,

Thank you for your e-mail. In the spaces below you'll find hyperlinks to each of the employer's documents, both of which pertain to the appeal's pending summary judgment matter. Please reach out to me via phone, so that I may give you the password necessary to access them. (I can be reached at phone number: 206-464-6550, Extension 2118.) If you have any questions or concerns, please let me know, and I'll take prompt action.

- Employer's Motion for Summary Judgment, dated March 31st; and
 - <https://biia.box.com/s/z5fsp4d3zwti6o18gc6deed01nyrjdq4>
- Employer's Reply to Claimant's Response - Motion for Summary Judgment, dated June 27th.
 - <https://biia.box.com/s/c3quscphva583hdja5zgcqzyzarlyw2r>

That said, I'd like to take this quick time and provide the following courtesy reminders, all of which pertain to the above referenced appeal:

- Your witness confirmation deadline is scheduled for June 30, 2022.
- A motion hearing for the employer's summary judgment motion will be held on June 30th at 2:00PM, at which time you will be required to dial in via the following number/passcode: 1-855-962-1342 / Passcode: 9987971#

Lastly, I'll attach a courtesy copy of the appeal's 3rd Amended Litigation Order, which issued just recently. Thank you for your time, Mr. Wright, and have a great day.

Sincerely,

Gabriel Lyengard
Judicial Assistant to:

- IAJ Julie Hines
- IAJ Lance Palmer
- IAJ Anna Woods
- ACIAJ Kylee Redman

Board of Industrial Insurance Appeals
1311 N Washington St. Suite B, Spokane, WA 99201

ExB 1 Pg. 2 of 3

Gabriel.Lyengard@BIIA.WA.Gov
206.464.6550, Ext. 2118

*The BIIA's website has been updated to provide electronic filing of all pleadings and correspondence: www.biaa.wa.gov/Filing.html. You will benefit from a quick and cost-free method of filing that gives you a receipt of the date and time of filing. In addition, electronically filed documents are more quickly identified and placed in the appeal file. If you file electronically, no other filing is required. Do not fax or mail an additional copy. **Additional copies will be destroyed.***

From: Curtis Wright <cwright98371@yahoo.com>
Sent: Tuesday, June 28, 2022 3:38 PM
To: Lyengard, Gabriel (BIIA) <Gabriel.Lyengard@BIIA.WA.GOV>
Subject: Request for a copy of something filed with The BIIA Court RE: 21 13048

External Email

Gabriel,

We had a Telephonic Hearing yesterday, June 27th. Judge Leslie Birnbaum noted that she wanted to move forward with The Employer's Motion for Summary Judgement which is scheduled for June 30th. I have checked my email and US Mail for today, June 28th, and I have yet to receive a copy of what The Employer filed. I would like to get a copy of this. Can you please send me a copy?

Thank you,

Curtis Wright



Docket No. 21 13048 - Curtis Wright - 3rd Amended Litigation Order.PDF
38.4kB

EXHIBIT # 2

Appellant's Exhibit
CASE # 56979-5-II Washington State Appeals Court

An photocopy of The Employer's mailing for The CR 56 Hearing

Postmarked July 26th, 2022 – For the CR Hearing on July 30th.

I received this July 30th, 2022 (but I believe it came the previous day
-I had already received a copy from The BIIA Court the before the
mail came the previous day.



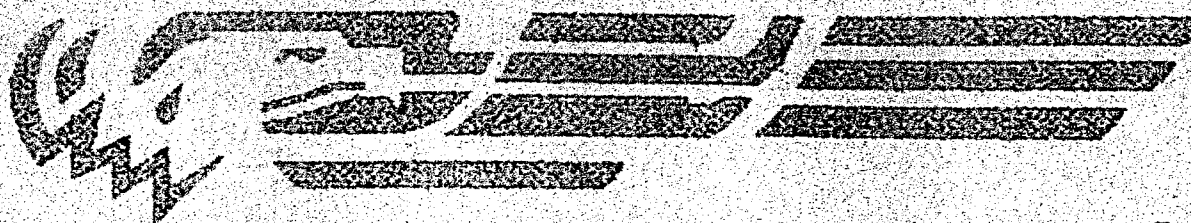
WALLACE · KLOR · MANN
CAPENER & BISHOP, P.C.

5800 Meadows Road, Suite 220 · Lake Oswego, OR 97035

Curtis Wright
501 Nightingale Pl.
Las Vegas, NV 89107-4341

Perp
7/30/22
INTERNAL CUSTODY

US POSTAGE IMI PITNEY BOWES



ZIP 97035 \$ 001.68⁰

02 4W

0000377753 JUL 26 2022

EXB 2 3 4
Pg. 3 of 4

1
2
3 BEFORE THE BOARD OF INDUSTRIAL INSURANCE APPEALS
4 STATE OF WASHINGTON

5 In re: Curtis Wright)

Docket No.: 21 13048

6 Claim No.: SC-56363)

**EMPLOYER'S INTERLOCUTORY
APPEAL TO ORDER DATED JULY 20,
2022**

8
9 **I. INTRODUCTION**

10 Pierce County submits this interlocutory appeal to the ALJ's July 20, 2022 order which denied
11 Pierce County's Motion for Summary Judgment. The order on appeal fundamentally misapplies a
12 crystalline area of law, is in clear error, and is reversible.

13 **II. FACTUAL BACKGROUND**

14 For brevity, Pierce County reiterates their statement of the facts found in both their Motion for
15 Summary Judgment and Reply to Claimant's Response to Summary Judgment.
16

17 **III. ISSUES PRESENTED**

- 18 1. Whether the July 20, 2022 order was incorrect; and
19 2. Whether Pierce County is entitled to summary judgment based on the admissible evidence and
20 legal standard found in CR 56.

21 **IV. EVI**

22 Pierce County relies on the below
23 their prior filings in this case, including t
24 thereto, and their Response to Claimant's Reply, and all exhibits attached ...
25
26

A. Pickels, and
xhibits attached

EXHIBIT # 3

Appellant's Exhibit
CASE # 56979-5-II Washington State Appeals Court

A one-page transcript from July 30th, 2022,
Where I noted **I only had 26 hours to review**
The Employer's Interlocutory – when 5 days is required
Per CR 56.

EXB3 Pg 1 of 3

1 PAGE

FROM TRANSCRIPT

ON JUNE 30th 2022

NOT IN COMPLIANCE

WITH CR 56.

EXB. 3

Pg. 23 of 23

1 27, 2022, with Exhibits 1 and 2.

2 I want to check in with the parties to make
3 sure that that agrees with what documents that
4 they -- that the parties submitted and received.

5 Mr. Pickels.

6 MR. PICKELS: Yes, Your Honor, that's consistent with
7 what I have in my records.

8 JUDGE BIRNBAUM: Thank you.

9 Mr. Wright.

10 MR. WRIGHT: Yes, as I made the objection on the 27th,
11 which is three days ago, this does not comport
12 with the criminal rules that I have enough time
13 to review this, and I would again bring up that
14 issue, Your Honor.

15 JUDGE BIRNBAUM: Thank you for noting that for the
16 record.

17 And I will note that we have had a number of
18 continuances in this matter and all parties are
19 able to put their objections to the schedule on
20 the record.

21 Mr. Johnson.

22 MR. JOHNSON: The list of documents you described is
23 what I have received and the Department did not
24 submit any.

25 JUDGE BIRNBAUM: Thank you.

JUDGE
DID NOT
COMPLY
WITH
CR 56

EXHIBIT # 4

Appellant's Exhibit
CASE # 56979-5-II Washington State Appeals Court

**Two transcript pages and emails showing one day to prepare
regarding evidence for Trial.**

EXB. 4

Pg. 1 of 7

EVIDENCE

1 Q. And was that transmitted to my office I should say by
2 DigiStream?

3 A. Yes, sir.

4 Q. Was there any alterations or manipulations of the
5 video that was captured on these dates before it was
6 transmitted to my office?

7 A. No, sir.

8 Q. From your perspective, the video surveillance of
9 Mr. Wright during these dates, are these genuine and
10 authentic videos of the surveillance captured of
11 Mr. Wright during these periods of time?

12 A. Yes, sir.

13 MR. BISHOP: Your Honor, I'd like to offer Exhibits 64
14 and 65 into the record.

15 JUDGE BIRNBAUM: Any objections, Mr. Wright?

16 MR. WRIGHT: My objection is that I only had 24 hours,
17 26 hours to review it when three days is
18 required, Your Honor. Thank you.

19 JUDGE BIRNBAUM: Mr. Johnson, any objections?

20 MR. JOHNSON: No objections.

21 JUDGE BIRNBAUM: All right.

22 Because Mr. Wright's objection has to do with
23 the time and the timing needed to observe, what
24 I'm going to do is admit Exhibits 64 and 65 into
25 the record as they have been authenticated;

Page 18

1 MR. BISHOP: I am just wondering if Dr. Bays'

2 transcript has been completed to date. And if
3 not, I would like to get a copy of it beforehand
4 if we could.

5 JUDGE BIRNBAUM: And that's what I'm looking at right
6 now. Just a minute. I believe it has. Just a
7 minute, please. Yes. That transcript is
8 available. Thank you. So I can make that
9 available to Mr. -- make it available to
10 everybody. Okay? Dr. Bays. Thank you for
11 asking about that, Mr. Wright and Mr. Bishop.

12 Okay. So I think that we have wrapped up for
13 today. The testimony for Mr. Barahona has been
14 completed subject to recall based on Mr. Wright's
15 request to review the video since he did not
16 have -- he and Mr. Johnson did not have a lot of
17 time to review this.

18 And there is no blame here, because this --
19 it is difficult when there are exhibits that are
20 videotape -- or audio, for that matter -- and I
21 know the employer has made significant efforts to
22 get them in the right format and did so
23 yesterday. So I understand that there were
24 technical problems and sometimes there are
25 delays. So we'll work with that.

RE: Exhibits: Curtis E. Wright - Docket No. 2113048

From: Sandifer, Juanita (BIIA) (juanita.sandifer@biia.wa.gov)

To: cwright98371@yahoo.com; cbishop@wkmcbllaw.com; jamesj@atg.wa.gov;
ba@wkmcbllaw.com; jada.brown@atg.wa.gov; ac@wkmcbllaw.com

Date: Tuesday, February 14, 2023 at 12:03 PM PST

Thank you for let us know Mr. Wright. Mr. Bishop will be having the video revised into MP4 and will resend them to you and to the Board.

Juanita Sandifer
JA to Judges Birnbaum & Straume
253/830-5102, Ext. 3100

From: Curtis Wright <cwright98371@yahoo.com>

Sent: Tuesday, February 14, 2023 10:33 AM

To: Chris Bishop <CBishop@WKMCBLaw.com>; Johnson James S. (ATG)

<jamesj@atg.wa.gov>; Sandifer, Juanita (BIIA) <Juanita.Sandifer@biia.wa.gov>; Brooke Anderson <ba@wkmcbllaw.com>; Brown, Jada J. (ATG) <jada.brown@atg.wa.gov>; Amanda Chatzigiannakos <ac@wkmcbllaw.com>

Subject: Re: Exhibits: Curtis E. Wright - Docket No. 2113048

External Email

Mr. Bishop (info for other email recipients),

I could not open them USBs as well so I took them to a nearby local computer shop and they could not open the USBs. I request your office provide me with a separate USB containing what "he wishes to show a portion(s) of the video at the hearing," as was written in the attached email from The BIIA Court.

Due to time constraints, I am emailing since a letter regarding the above issues would not get to Mr. Bishop's Office soon (especially since the Hearing is in two days).

Curtis Wright

Ex. 4 Pg. 4 of 7

On Tuesday, February 14, 2023 at 09:44:13 AM PST, Chris Bishop <cbishop@wkmcbllaw.com> wrote:

Thank you for the heads up. We will fix this issue as soon as possible.

Christopher A. Bishop

Attorney/Shareholder

p: 503-224-8949 ex. 109 | m: 503-851-0028

f: 503-224-0410 | e:

cbishop@wkmcbllaw.com

w: www.wkmcbllaw.com

Lake Oswego, OR | Seattle, WA | San Jose, CA



WALLACE · KLOR · MANN
CAPENER & BISHOP, P.C.

THIS MESSAGE IS INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY TO WHICH IT IS ADDRESSED, AND MAY CONTAIN INFORMATION THAT IS PRIVILEGED, CONFIDENTIAL AND EXEMPT FROM DISCLOSURE UNDER APPLICABLE LAW. IF THE READER OF THIS MESSAGE IS NOT THE INTENDED RECIPIENT, OR THE EMPLOYEE OR AGENT RESPONSIBLE FOR DELIVERING THE MESSAGE TO THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISSEMINATION, DISTRIBUTION OR COPYING OF THIS COMMUNICATION IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE NOTIFY US IMMEDIATELY BY TELEPHONE, AND DELETE THIS MESSAGE WITHOUT MAKING A COPY.

ERB 4 Pg. 5 of 7

From: Almeida, Rosanne (BIIA) <Rosanne.Almeida@bii.wa.gov>
Sent: Tuesday, February 14, 2023 8:43 AM
To: Brooke Anderson <BA@WKMCBLaw.com>; Chris Bishop <CBishop@WKMCBLaw.com>
Cc: Sandifer, Juanita (BIIA) <Juanita.Sandifer@bii.wa.gov>;
CWRIGHT98371@YAHOO.COM; Johnson, James S. (ATG) <JamesS.Johnson@atg.wa.gov>
Subject: Exhibits: Curtis E. Wright - Docket No. 2113048
Importance: High

Good morning,

Yesterday, I was notified by a staff member in our mailroom that the Board received 2 thumb drives and cover letter, indicating that the thumb drives are employer's proposed Exhibits 64 and 65 for the upcoming hearing on Thursday, February 16, 2023.

Our mailroom scanned the letter to the electronic file; however, the 2 thumb drives containing video surveillance could not be uploaded to the file because they are not in Mp4 format and therefore, not viewable.

Please ensure Mr. Bishop has the videos available if he wishes to show a portion(s) of the video at the hearing.

Feel free to reach out to Juanita Sandifer or myself if you have questions.

Sincerely,

Rosanne Almeida



Rosanne Almeida (she/her)

Judicial Assistant to:

Judge Rene

EXB. 4 Pg. 6 of 7

Judge Stockman

5712 Main ST SW, Suite 200

Lakewood, WA 98499

253-830-5102 Ext. 3101|855-586-5611|

Rosanne.Almeida@bija.wa.gov

This email and any files transmitted with it are confidential and intended solely for the use of the individual or entity to whom they are addressed. This message may contain confidential information and is intended only for the individual(s) named. If you are not the named addressee, please delete this email. You are notified that disclosing, copying, distributing or taking any action in reliance on the contents of this information may be unlawful.

*The BIIA's website has been updated to provide electronic filing of all pleadings and correspondence: www.bija.wa.gov/Filing.html. If you file electronically, no other filing is required. Do not fax or mail an additional copy. **Additional copies will be destroyed***

FILED
COURT OF APPEALS
DIVISION II

WASHINGTON STATE APPEALS COURT

2023 MAR 13 PM 12:19

Division II

STATE OF WASHINGTON

BY KT
DEPUTY

Petitioner: Curtis Wright

Claimant (pro se)

No: 56979-5, II

Respondent:

DECLARATION

Pierce County Risk Management,

Tacoma, WA

**Declaration with Sworn Statement
Language Included.**

Personal information

Name: Curtis Wright

501 Nightingale PL

Las Vegas, NV 89107

Phone 253-606-1522

Email: cwright98371@yahoo.com

All of the information I have provided Pierce County, The Washington State Department of Labor and Industries, The WA State Board of Industrial Insurance, Pierce County Superior Court, and **Washington State Appeals Court** is true and correct. All of the documents I have provide these agencies are legitimate and correct. The documents came from where I note they came from.

1/2

1
2 All of my statements, both verbal and written regarding all of my work injuries are true
3 and correct.
4

5 This Declaration is for Washington State Appeals Court regarding Pierce County's
6 Superior Court's denial of my Appeal of The Board of Industrial Insurance Appeals Order.
7 This Declaration includes what I have written and what I am still writing in my paperwork
8 to The Washington State Appeals Court regarding my **BRIEF**, and any related paperwork.
9 This case is from Pierce County Superior Court, cause # 22-2-05097-2 that originated
10 from The Board of Industrial Insurance Appeals, Docket # 21 14537 (and previously Claim
11 # SE 64111 from Washington State Dept of Labor and Industries).
12

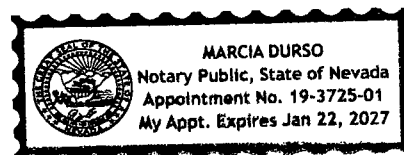
13 I declare under penalty of perjury under the laws of the state of Washington that the facts I
14 have provided on this form are true.

15 Signed at (city and state): LAS VEGAS, NV Date: Jan. 4th, 2023
16 [Signature] CURTIS WRIGHT
17 Sign here Print name
18
19
20
21
22
23
24

25 State of Nevada, County of Clark
26 SWORN before me, this day on January, 04 of 2023.
27 by Curtis Elliot Wright
28
29
30

31 Marcia Durso
32 NOTARY PUBLIC
33

34 My commission expires 01.22.27.
35



2/2